

REMARKS

The allowance of claims 5-9 and 12-15 is noted, with thanks. Claims 1 and 2 have been amended to clarify the invention, and to better define the invention over the prior art. No new matter has been entered by any of the foregoing amendments.

Considering first claims 2 and 11, Applicants request reconsideration of the request to cancel these claims. Claim 2 incorporates limitations included in claim 6, which has been allowed. Applicants submit the invention as claimed in claims 2 and 11 is relevant to FIGS 1-8 and should therefore be considered herein.

Turning to the rejection of claims 1 and 10 under 35 USC §103 (a) as being unpatentable over US. Patent No. 6,339,570 to Kikuchi in view of US Patent No. 6,584,048 to Tateishi et al, the Examiner takes the position that Tateishi et al. describes that a focusing error is detected based on a difference between the absolute value of the positive peak and the absolute value of the negative peak in the focus error signal, and also USP 6,031,792 also describes that an error in the substrate thickness is detected based on a difference between the absolute value of the positive peak and the absolute value of the negative peak in the focus error signal.

The Examiner is in error. Neither Tateishi et al. nor USP 6,031,792 teach such matters. Tateishi et al. Fig. 5B describes that the focus position is determined to be in AREA 1 before the focus error signal takes a positive peak (that is, a range of $t < t_3$ in the horizontal axis), the focus position is determined to be in AREA 2 before the focus error signal takes a negative peak after it took the positive peak (that is, a range of $t_3 < t < t_{10}$ in the horizontal axis), and the focus position is determined to be in AREA 3 after the focus error signal takes a negative peak (that is, a range of $t_{10} < t$ in the horizontal axis). But it is not described in Tateishi et al. that the

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substrate thickness is detected based on $|v(t3)| - |v(t10)|$, which is a difference between the absolute value ($|v(t3)|$ of the vertical axis) of a positive peak of the focus error signal and the absolute value ($|v(t10)|$ of the vertical axis) of a negative peak thereof.

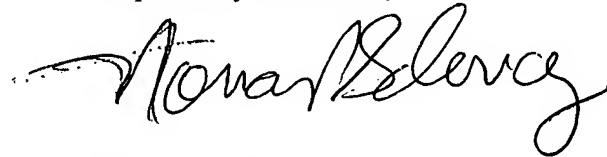
USP 6,031,792 describes that a focus error signal is detected without being influenced by a difference in substrate thickness by the same light receiving portion and calculation circuit with respect to DVDs and CDs which are different from each other in regard to substrate thickness. However, USP 6,031,792 does not describe that the substrate thickness is detected based on a difference between the absolute value of a positive peak of the focus error signal and the absolute value of a negative peak thereof.

Thus, no combination of the applied art would achieve or render obvious claim 1 or claim 10 which is dependent thereon.

Having dealt with all the objections raised by the Examiner, the Application is believed to be in order for allowance. Early and favorable action is respectfully requested.

In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account Number 08-1391.

Respectfully submitted,



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AMENDMENT F

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